

# WISCONSIN INDIANHEAD TECHNICAL COLLEGE



**PROCEDURE:** G-125A

**TITLE:** Complaint Resolution Procedure

**CROSS REFERENCE(S):**

Employee Handbook (current)

The College has established a complaint resolution procedure to provide a timely and orderly review of decisions concerning a) workplace safety; b) employee discipline; and c) employee termination in compliance with Wisconsin Statute §66.0509(1)(1m)(a)(1.).

## Definitions

- a) **“Workplace Safety”**: For purposes of this procedure, “workplace safety” includes any practice or condition, affecting the safety of persons, property or equipment. “Workplace safety” shall be narrowly construed and not be construed to include basic conditions of employment unrelated to physical health and safety. “Workplace Safety” means conditions of employment related to the physical health and safety of employees, as long as such conditions are not enforceable under state or federal law, and includes safety of the physical work environment, the safe operation of workplace equipment and tools, provision of protective equipment, warning requirements, workplace violence and accident risk. “Workplace safety” does not include conditions of employment such as hours, overtime, sick, family, or medical leaves, work schedules, or breaks.
- b) **“Employee Discipline”**: For purposes of this procedure, “discipline” includes a personnel action that negatively impacts an employee’s base pay and/or impacts an employee’s employment status provided base pay is negatively affected. “Discipline” does not include verbal notices, verbal discipline, verbal counseling, written counseling, written reprimands, or Performance Improvement Plans (PIPs). “Employee discipline” does also not include plans of correction, performance evaluations or reviews, documentation of employee acts and/or omissions in an employment file, administrative leave (with pay) pending investigation of alleged misconduct or nonperformance, non-disciplinary wage, benefit or salary adjustments, layoff, workforce reductions, or changes in assignment or assignment location, provided base pay is not reduced.
- c) **“Employee Termination”**: “Termination” means a separation from employment by the College for disciplinary or quality of performance reasons. “Termination” does not include layoff, furlough, reduction in workforce, failure to meet licensure qualifications, retirement, nonrenewal under Wis. Stat. 118.22 or 118.24, separation as a result of disability, action taken pursuant to an ordinance created under s. 19.59(1m), completion of temporary employment, seasonal employment, contract employment, or assignment; “termination” also does not include voluntary termination including, resignation, end of employment due to disability, job abandonment, or death.

**“Impartial Hearing Officer”**: For purposes of this procedure, the “Impartial Hearing Officer” (IHO) shall be designated by Administration. The role of the IHO will be to define the issues, identify areas of agreement between the parties and identify the issues in dispute, and to hear the parties’ respective arguments.

## Costs

The employee shall pay a \$50 filing fee when requesting the service of an IHO who is selected by, and paid for by, the College. However, in the event a Wisconsin Employee Relations Commission (WERC) staff member serves as the IHO, both the College and employee will share in the cost (currently \$400 to each party). Each party will be responsible for its own costs for witnesses and all other out-of-pocket expenses, including possible attorney fees, in investigating, preparing, presenting, or defending a complaint.

### Time Limits

The term "days" as used in this procedure means calendar days, excluding holidays as defined in the Handbook. The College and employee may mutually agree to waive time limits, in writing. If the last day on which a complaint is to be filed or a decision is to be appealed is a Saturday, Sunday or holiday as defined in the Handbook, the time limit is the next day which is not a Saturday, Sunday or holiday. If the complaint is not answered within the time limits, the employee may proceed to the next available step within 7 days. If the employee fails to comply with the time limits specified in this procedure, the complaint will be deemed dismissed, with prejudice.

### Written Appeal

An appeal shall be in writing and explain the reasons for the appeal. The request shall be filed with the Associate Vice President, Human Resources and Employee Relations within 7 days of receipt of the IHO's decision.

### Procedure for Complaints Concerning Employee Workplace Safety:

Step 1: Any employee who identifies a workplace safety issue or is given information about an incident must notify his/her supervisor of the issue or incident within 24 hours of when the employee knew about the incident or issue.

An Incident Report, completed by the employee, with assistance from his/her supervisor as necessary, outlining the facts of the complaint and a proposed remedy/resolution, shall be signed by all concerned parties and submitted to the Campus Safety Committee with a copy to the College Safety Manager for review and consideration within 7 days of the incident or issue.

Step 2: After receipt of the completed Incident Report, the Campus Safety Committee will conduct an investigation, as required, and normally issue a final report on its findings and conclusions within 30 days of receipt of the completed Incident Report. All reasonable non-financial efforts shall be considered, recommended and/or expended prior to recommending any financial remedies. Copies of the Campus Safety Committee's final report with findings and conclusions will be given to the persons who signed the Incident Report, as well as to the College Safety Manager.

Step 3: The employee may appeal the findings and conclusions of the Campus Safety Committee and request the appointment of an IHO by submitting a written complaint to the Associate Vice President, Human Resources and Employee Relations within 7 days after receipt of the Campus Safety Committee's final report.

If filed within the prescribed time requirements, the appeal hearing will normally be scheduled within 30 days of receipt of the request for hearing. Prior to the hearing, the parties will participate in a mandatory conciliation meeting facilitated by the IHO who shall not be disqualified for involvement in the conciliation process. The IHO may require the parties to submit documents and witness lists in advance of the hearing in order to expedite the hearing. At the conclusion of the hearing, the IHO shall record one of four outcomes: 1) Sustaining the conclusions of the Campus Safety Committee, 2) Denying the conclusions of the Campus Safety Committee, 3) Modifying the conclusions of the Campus Safety Committee, or 4) Recommending additional investigation prior to a final determination. All reasonable non-financial remedies shall be considered, recommended and/or expended prior to recommending any financial remedies.

Step 4: The College or employee may appeal the decision of the IHO to the WITC Board of Trustees by filing a request within 7 days of receipt of the written decision of the IHO.

Level of Review: The WITC Board of Trustees shall review the written decision of the IHO and the reasons for the appeal. The role of the Board, in reviewing the decision of the IHO, is to solely address the following questions:

1. Did the IHO follow a fair and impartial process?
2. Is there evidence of corruption, fraud, or misconduct by the IHO?
3. Did the IHO make an error of law which makes his/her decision invalid?
4. Did the IHO make an error of fact which makes his/her decision invalid?

After answering the above questions, the WITC Board of Trustees will decide to uphold, modify, or reverse the decision of the IHO. The WITC Board of Trustees will issue its written decision within sixty (60) days from receipt of the appeal.

Procedure for Complaints Concerning Employee Terminations and Employee Discipline:

Step 1: A written complaint shall include the facts upon which the complaint is based, indicate the specific resolution being sought, and shall be submitted to Human Resources within 7 days after the discipline was imposed or termination became effective.

Human Resources shall refer the matter to the immediate supervisor of the complainant employee's supervisor, who will conduct an investigation and will normally issue a final report in writing to the employee with a copy to Human Resources within 7 days after receipt of the written complaint. Copies of the final report shall also be provided to the employee's immediate supervisor.

Step 2: If the complaint is not settled in Step 1, and the employee wishes to appeal the decision of the investigating supervisor, the employee shall submit the written complaint to the Associate Vice President, Human Resources and Employee Relations, to request a hearing before an IHO within 7 days after receipt of the Step 1 report.

The IHO will assist the parties in identifying areas of agreement and areas of dispute and hear the parties' respective arguments. The IHO may require the parties to submit documents and witness lists in advance of the hearing in order to expedite the hearing.

If timely requested, the hearing will normally be scheduled within 30 days of receipt of the request for hearing. At the conclusion of the hearing, the IHO shall render a written decision indicating the reasons for one of four decisions: 1) Sustaining the discipline/termination, 2) Modifying the discipline /termination, 3) Denying the discipline/ termination, or 4) Recommending additional investigation prior to final determination.

Step 3: The College or employee may appeal the written decision of the IHO to the WITC Board by filing a request within 7 days of receipt of the written decision of the IHO.

Level of Review: The WITC Board shall review the written decision of the IHO and the reasons for the appeal. The role of the Board, in reviewing the decision of the IHO, is to solely address the following questions:

1. Did the IHO follow a fair and impartial process?
2. Is there evidence of corruption, fraud, or misconduct by the IHO?
3. Did the IHO make an error of law which makes his/her decision invalid?
4. Did IHO make an error of fact which makes his/her decision invalid?

After answering the above questions, the WITC Board will decide to uphold, modify, or reverse the decision of the IHO. The WITC Board will issue its written decision within sixty (60) days from receipt of the appeal.

Limitations of the Scope of the Complaint Resolution Procedure

- A complaint that is subject to a grievance procedure in a collective bargaining agreement may not be brought forth under this Complaint Resolution Procedure.
- The scope of a complaint that is subject to other policy or ordinance for formal or informal investigation or dispute resolution procedures may not be brought forth under this Complaint Resolution Procedure.

Questions relating to the Complaint Resolution Procedure shall be directed to Human Resources.

Policy Adopted: September 19, 2011

A handwritten signature in black ink, appearing to read "Bob Meyer". The signature is written in a cursive style and is positioned above a horizontal line.

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PRESIDENT  
WISCONSIN INDIANHEAD TECHNICAL COLLEGE